

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 1059

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

An act to amend Section 6105 of the Commercial Code, to amend Section 15606 of the Government Code, and to amend Sections 72, 194, 220.5, 531.8, and 533 of, and to add ~~Sections 256.6 and 276.5~~ *Section 256.6* to, the Revenue and Taxation Code, relating to property taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1059, as amended, Committee on Revenue and Taxation. Property taxation.

(1) Existing law requires a buyer that is a party to a bulk sale, as defined, to provide a notice of the sale to the county tax collector in the county or counties in which the property that is involved in the sale is located. Existing law requires a buyer to include a property statement, as specified, with this notice if it is delivered between March 1 and the last Friday in May.

This bill would change the dates for which a property statement is required to be sent with a bulk sale notice to notices delivered between January 1 and May 31.

(2) Existing law requires the State Board of Equalization to, among other duties, prescribe rules, regulations, and forms for equalizing property tax assessments.

This bill would require the board to make and publish an estimate of the fiscal impact that results from specified board actions.

(3) Existing law requires a city or a county to provide to county assessors, among other documents, copies of any building permits or certificates of occupancy issued by those entities.

This bill would authorize the board of supervisors of a county to enact, by a majority vote of its entire membership, an ordinance that requires a party that files, or causes to be filed, an approved set of tentative maps with the county or a city in that county to provide a copy of these maps to the county assessor as soon as possible after the maps are filed.

(4) Existing law authorizes a taxpayer in an eligible county, as defined, to defer the payment of property taxes on real property and manufactured homes, as provided, that has sustained “substantial disaster damage,” which term is generally defined as real property and any manufactured home that has received or is eligible for the ~~homeowner’s~~ homeowners’ exemption, as provided, and that has sustained damage amounting to at least 10% of its fair market value or \$5,000, whichever is less.

This bill would change that \$5,000 limit to \$10,000.

(5) Existing law exempts from property taxation aircraft of historical significance, as defined, only if the assessee is an individual owner of the aircraft who does not hold the aircraft for the purposes of selling it, the assessee does not use the aircraft for commercial purposes or general transportation, and the aircraft is available for display to the public, as provided. Existing law requires an assessee that claims this exemption to file an affidavit regarding the aircraft, which affidavit is provided by the assessor.

This bill would require an assessee that applies for this exemption to attach to that application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed to the public. ~~This bill would also specify that if a person claiming this exemption fails to file the required affidavit before February 15 of the fiscal year in which the exemption is sought, but files that affidavit on or before August 1, the exemption amount would be reduced by 20%.~~

(6) Existing law, pursuant to a constitutional mandate, exempts from property taxation property held or used exclusively for nonprofit cemetery purposes, as specified.

This bill would require county assessors to annually notify, in the manner prescribed by the State Board of Equalization, those assessees that claimed this exemption in the prior fiscal year, as specified. This bill would also require that this notice contain a separate form that

queries assessees regarding the current status of the property, as provided. This bill would also provide that if an assessee does not return the query form, that assessee may be subject to an onsite inspection of the property by the assessor. By requiring county assessors to provide this additional notice, this bill would impose a state-mandated local program.

(7) Existing property tax law provides for assessments to be made on property outside the regular assessment period if that property escaped assessment during the regular assessment period, as provided. Existing law requires county assessors to notify those subject to these assessments and requires that this notice provide the name and address of a person at the assessor's office that has knowledge of the escape assessment so that those subject to the assessment can contact that person with questions regarding the assessment. Existing law also requires county auditors to enter escape assessments on the county tax roll, as provided.

This bill would require that notices of escape assessments include only the telephone number of the assessor's office. This bill would also authorize county assessors to make entries of escape assessments on either a hard copy or an electronic version of the county tax roll.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6105 of the Commercial Code is
2 amended to read:
3 6105. In order to comply with subdivision (b) of Section 6104
4 each of the following shall be satisfied:



1 (a) The notice shall comply with each of the following:
2 (1) State that a bulk sale is about to be made.
3 (2) State the name and business address of the seller together
4 with any other business name and address listed by the seller
5 (subdivision (a) of Section 6104) and the name and business
6 address of the buyer.
7 (3) State the location and general description of the assets.
8 (4) State the place and the anticipated date of the bulk sale.
9 (5) State whether or not the bulk sale is subject to Section
10 6106.2 and, if so subject, the matters required by subdivision (f)
11 of Section 6106.2.
12 (b) At least 12 business days before the date of the bulk sale, the
13 notice shall be:
14 (1) Recorded in the office of the county recorder in the county
15 or counties in this state in which the tangible assets are located and,
16 if different, in the county in which the seller is located (paragraph
17 (2) of subdivision (a) of Section 6103).
18 (2) Published at least once in a newspaper of general circulation
19 published in the judicial district in this state in which the tangible
20 assets are located and in the judicial district, if different, in which
21 the seller is located (paragraph (2) of subdivision (a) of Section
22 6103), if in either case there is one, and if there is none, then in a
23 newspaper of general circulation in the county in which the
24 judicial district is located.
25 (3) Delivered or sent by registered or certified mail to the
26 county tax collector in the county or counties in this state in which
27 the tangible assets are located. If delivered during the period from
28 January 1 to May 31, inclusive, the notice shall be accompanied
29 by a completed business property statement with respect to
30 property involved in the bulk sale pursuant to Section 441 of the
31 Revenue and Taxation Code.
32 If the tangible assets are located in more than one judicial
33 district in this state, the publication required in paragraph (2) shall
34 be in a newspaper of general circulation published in the judicial
35 district in this state in which a greater portion of the tangible assets
36 are located, on the date the notice is published, than in any other
37 judicial district in this state and, if different, in the judicial district
38 in which the seller is located (paragraph (2) of subdivision (a) of
39 Section 6103). As used in this subdivision, “business day” means

1 any day other than a Saturday, Sunday, or day observed as a
2 holiday by the state government.

3 SEC. 2. Section 15606 of the Government Code is amended
4 to read:

5 15606. The State Board of Equalization shall do all of the
6 following:

7 (a) Prescribe rules for its own government and for the
8 transaction of its business.

9 (b) Keep a record of all its proceedings.

10 (c) Prescribe rules and regulations to govern local boards of
11 equalization when equalizing, and assessors when assessing,
12 including uniform procedures for the consideration and adoption
13 of written findings of fact by local boards of equalization as
14 required by Section 1611.5 of the Revenue and Taxation Code.

15 (d) Prescribe and enforce the use of all forms for the assessment
16 of property for taxation, including forms to be used for the
17 application for reduction in assessment.

18 (e) Prepare and issue instructions to assessors designed to
19 promote uniformity throughout the state and its local taxing
20 jurisdictions in the assessment of property for the purposes of
21 taxation. It may adapt the instructions to varying local
22 circumstances and to differences in the character and conditions of
23 property subject to taxation as in its judgment is necessary to attain
24 this uniformity.

25 (f) Subdivisions (c), (d) and (e) shall include, but are not
26 limited to, rules, regulations, instructions, and forms relating to
27 classifications of kinds of property and evaluation procedures.

28 (g) Prescribe rules and regulations to govern local boards of
29 equalization when equalizing and assessors when assessing with
30 respect to the assessment and equalization of possessory interests.

31 (h) Bring an action in a court of competent jurisdiction to
32 compel an assessor or any city or county tax official to comply with
33 any provision of law, or any rule or regulation of the board adopted
34 in accordance with subdivision (c), governing the assessment or
35 taxation of property. The Attorney General shall represent the
36 board in the action.

37 (i) When the board acts pursuant to subdivision (c), (d), (e), or
38 (g), it shall do both of the following:

39 (1) Estimate the fiscal impact of that action.

1 (2) Publish the estimate described in paragraph (1) in a
2 document that is generated as a result of that action.

3 (j) This section is mandatory.

4 SEC. 3. Section 72 of the Revenue and Taxation Code is
5 amended to read:

6 72. (a) A copy of any building permit issued by any city,
7 county, or city and county shall be transmitted by each issuing
8 entity to the county assessor as soon as possible after the date of
9 issuance.

10 (b) A copy of any certificate of occupancy or other document
11 that shows the date of completion of new construction issued or
12 finalized by any city, county, or city and county, shall be
13 transmitted by each entity to the county assessor within 30 days
14 after the date of issuance or finalization.

15 (c) At the time an assessee files, or causes to be filed, an
16 approved set of building plans with the city, county, or city and
17 county, a scale copy of the floor plans and exterior dimensions of
18 the building designated for the county assessor shall be filed by the
19 assessee or his or her designee. The scale copy shall be in sufficient
20 detail to allow the assessor to determine the square footage of the
21 building and, in the case of a residential building, the intended use
22 of each room. An assessee, or his or her designee, where multiple
23 units are to be constructed from the same set of building plans, may
24 file only one scale copy of floor plans and exterior dimensions, so
25 long as each application for a building permit with respect to those
26 building plans specifically identifies the scale copy filed pursuant
27 to this section. However, where the square footage of any one of
28 the multiple units is altered, an assessee, or his or her designee,
29 shall file a scale copy of the floor plan and exterior dimensions that
30 specifically identifies the alteration from the previously filed scale
31 copy. The receiving authority shall transmit that copy to the county
32 assessor as soon as possible after the final plans are approved.

33 (d) The board of supervisors of a county may enact, by a
34 majority vote of its entire membership, an ordinance that requires
35 a party that files, or causes to be filed, an approved set of tentative
36 maps with the county or a city in that county to provide a copy of
37 these maps to the county assessor as soon as possible after the maps
38 are so filed.

39 SEC. 4. Section 194 of the Revenue and Taxation Code is
40 amended to read:

194. As used in this chapter:

(a) “Eligible county” means a county that meets both of the following requirements:

(1) Has been proclaimed by the Governor to be in a state of emergency.

(2) Has adopted an ordinance providing property tax relief for disaster victims as provided in Section 170.

(b) “Eligible property” means real property and any manufactured home, including any new construction that was completed or any change in ownership that occurred prior to the date of the disaster that meets both of the following requirements:

(1) Is located in an eligible county.

(2) Has sustained substantial disaster damage and the disaster resulted in the issuance of a state of emergency proclamation by the Governor.

“Eligible property” does not include any real property or any manufactured home, whether or not it otherwise qualifies as eligible property, if that real property or manufactured home was purchased or otherwise acquired by a claimant for relief under this chapter after the last date on which the disaster occurred.

(c) “Fair market value” means “full cash value” or “fair market value” as defined in Section 110.

(d) “Next property tax installment payment date” means December 10 or April 10, whichever date occurs first after the last date on which the eligible property was damaged.

(e) “Property tax deferral claim” means a claim filed by the owner of eligible property in conjunction with, or in addition to, the filing of an application for reassessment of that property pursuant to Section 170, that enables the owner to defer payment of the next installment of taxes on property on the regular secured roll for the current fiscal year, as provided in Section 194.1 or to defer payment of taxes on property on the supplemental roll for the current fiscal year, as provided in Section 194.9.

(f) “Substantial disaster damage,” as to real property located in a county declared to be a disaster by the Governor, means, with respect to real property and any manufactured home that has received the homeowners’ exemption or is eligible for the exemption as of the most recent lien date, damage amounting to at least 10 percent of its fair market value or ten thousand dollars (\$10,000), whichever is less; and, with respect to other property,

1 damage to the parcel of at least 20 percent of its fair market value
2 immediately preceding the disaster causing the damage.

3 SEC. 5. Section 220.5 of the Revenue and Taxation Code is
4 amended to read:

5 220.5. (a) Aircraft of historical significance shall be exempt
6 from taxation.

7 (b) The exemption provided in subdivision (a) applies only if
8 all of the following conditions are satisfied:

9 (1) The assessee is an individual owner who does not hold the
10 aircraft primarily for purposes of sale.

11 (2) The assessee does not use the aircraft for commercial
12 purposes or general transportation.

13 (3) The aircraft is available for display to the public at least 12
14 days during the 12-month period immediately preceding the lien
15 date for the year for which the exemption is claimed. If the aircraft
16 was first made available for public display less than 12 days prior
17 to the lien date, the exemption may be granted if the claimant
18 certifies in writing that the aircraft will be made available for
19 public display at least 12 days during the 12-month period
20 commencing with the first day the property was made available for
21 public display. When applying for an exemption pursuant to this
22 section, the claimant shall attach to that application a certificate of
23 attendance from the event coordinator of the event at which the
24 aircraft was displayed as required by this paragraph.

25 (c) When claiming an exemption pursuant to this section, the
26 claimant shall provide all information required and answer all
27 questions contained in an affidavit furnished by the assessor. The
28 claimant shall sign and swear to the accuracy of the contents of the
29 affidavit before either a notary public or the assessor or his or her
30 designee, at the claimant's option. The assessor may require
31 additional proof of the information or answers provided in the
32 affidavit before allowing the exemption.

33 (d) For purposes of this section, "aircraft of historical
34 significance" means any aircraft which is an original, restored, or
35 replica of a heavier than air powered aircraft which is 35 years or
36 older or any aircraft of a type or model of which there are fewer
37 than five in number known to exist worldwide.

38 (e) A fee of thirty-five dollars (\$35) shall be charged and
39 collected by the assessor upon the initial application for an
40 exemption pursuant to this section.



SEC. 6. Section 256.6 is added to the Revenue and Taxation Code, to read:

256.6. (a) (1) Prior to the lien date, the assessor shall annually mail a notice to every person or entity that received, in the immediately preceding fiscal year, the exemption provided by Section 204.

(2) The board shall prescribe the form for the annual notice described in paragraph (1), which form shall specify the following:

(A) The circumstances under which the property may be disqualified from exemption.

(B) That the person or entity has a duty to inform the assessor if the property no longer qualifies for the exemption.

(b) At the same time the notice is described in subdivision (a) is mailed, the assessor shall include with that notice a card that may be returned to the assessor by the person or entity receiving the notice, and which card shall be in the following form:

To all persons and entities that have received a nonprofit cemetery exemption for the ____ fiscal year.

QUESTION: Will the property to which the exemption applied in the ____ fiscal year continue to be used or held exclusively for the burial or other permanent deposit of the human dead or for the care, maintenance, or upkeep of that property or those dead in the ____ fiscal year?

____ yes ____ no

Signature: _____ Title: _____

Failure to return this card does not constitute a waiver of this exemption as specified by the California Constitution, but may result in an onsite inspection by the assessor to verify any exempt activity.

~~SEC. 7. Section 276.5 is added to the Revenue and Taxation Code, to read:~~

~~276.5. If a person claiming the exemption of an aircraft of historical significance under Section 220.5 fails to file the affidavit required by that section by 5 p.m. on February 15 of the fiscal year for which the exemption is claimed, but files that affidavit on or before the following August 1, the assessment shall be reduced by~~

1 ~~an amount equal to 80 percent of the reduction that would have~~
2 ~~been allowed had the affidavit been timely filed.~~

3 ~~SEC. 8.~~ Section 531.8 of the Revenue and Taxation Code is
4 amended to read:

5 531.8. No escape assessment shall be enrolled under this
6 article before 10 days after the assessor has mailed or otherwise
7 delivered to the affected taxpayer a “Notice of Proposed Escape
8 Assessment” with respect to one or more specified tax years. The
9 notice shall prominently display on its face the following heading:

10
11 “NOTICE OF PROPOSED ESCAPE ASSESSMENT”

12
13 The notice shall contain all of the following:

14 (a) The amount of the proposed escape assessments for each tax
15 year at issue.

16 (b) The telephone number of the assessor’s office to allow a
17 taxpayer to contact that office with respect to the proposed escape
18 assessment or assessments.

19 ~~SEC. 9.~~

20 SEC. 8. Section 533 of the Revenue and Taxation Code is
21 amended to read:

22 533. (a) (1) Assessments made pursuant to Article 3
23 (commencing with Section 501) of this chapter or pursuant to this
24 article shall be entered on the roll for the current assessment year,
25 as defined in Section 118, and, if this is not the roll for the
26 assessment year in which the property escaped assessment, the
27 entry shall be followed with “Escaped assessment for year ____
28 pursuant to Sections ____ of the Revenue and Taxation Code.”

29 (2) The assessor may make the entries described in paragraph
30 (1) on either the hard copy of the roll or the electronic version of
31 the roll, as determined by the assessor.

32 (b) (1) If the assessments are made as a result of an audit that
33 discloses that property assessed to the party audited has been
34 incorrectly assessed either for a past tax year for which taxes have
35 been paid and a claim for refund is not barred by Section 5097 or
36 for any tax year for which the taxes are unpaid, the tax refunds
37 resulting from the incorrect assessments shall be an offset against
38 proposed tax liabilities, including accumulated penalties and
39 interest, resulting from escaped assessments for any tax year
40 covered by the audit.

1 (2) Beginning with the 1981–82 fiscal year, assessment for the
2 current and prior year shall be entered using a 100 percent
3 assessment ratio and the tax rate for years prior to the 1981–82
4 fiscal year will be divided by four.

5 (3) If these tax refunds exceed any proposed tax liabilities,
6 including accumulated penalties and interest, the party audited
7 shall be notified by the tax collector of the amount of the excess
8 and of the fact that a claim for cancellation or refund may be filed
9 with the county as provided by Section 5096 or 5096.7. If the
10 assessment caused an excess payment of taxes and therefore
11 resulted in an overpayment by the state for property tax relief as
12 provided by Section 219, then subsequent subventions for
13 property tax relief shall be reduced by the amount of ~~such~~ *the*
14 overpayment.

15 ~~SEC. 10.—~~

16 *SEC. 9.* Notwithstanding Section 17610 of the Government
17 Code, if the Commission on State Mandates determines that this
18 act contains costs mandated by the state, reimbursement to local
19 agencies and school districts for those costs shall be made pursuant
20 to Part 7 (commencing with Section 17500) of Division 4 of Title
21 2 of the Government Code. If the statewide cost of the claim for
22 reimbursement does not exceed one million dollars (\$1,000,000),
23 reimbursement shall be made from the State Mandates Claims
24 Fund.

